

DENTAL BOARD[650]

Adopted and Filed

Rule making related to licensure

The Dental Board hereby amends Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Chapter 20, “Dental Assistants,” and Chapter 30, “Discipline”; adopts new Chapter 50, “Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions”; and amends Chapter 52, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 153.33 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

Purpose and Summary

These amendments implement 2020 Iowa Acts, House File 2627, and provide:

- Addition of new subrules to set forth the availability and procedures for licensure by verification for dentists, dental hygienists, and dental assistants,
- Updated grounds for discipline for criminal convictions as set forth in House File 2627,
- Removal of the term “spouse” from Chapter 52 as a result of the striking of Iowa Code section 272C.4(13) in House File 2627, and
- Addition of a new Chapter 50 regarding the use of criminal convictions in eligibility determinations and initial licensure decisions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5371C**. A virtual public hearing was held on January 19, 2021, at 2 p.m. No one attended the public hearing. No public comments were received. A correction has been made in subrules 11.12(1) and 20.17(1) to remove the duplicate phrase “substantially similar” so that the language now reads, “jurisdiction that has a scope of practice substantially similar to that of Iowa.” No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on April 2, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 650—7.4(17A,147,153).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 18, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 11.3(6):

11.3(6) A dentist who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by credentials may apply for licensure by verification, if eligible, in accordance with rule 650—11.12(272C).

ITEM 2. Adopt the following **new** subrule 11.4(5):

11.4(5) A dentist who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure in this rule may apply for licensure by verification, if eligible, in accordance with rule 650—11.12(272C).

ITEM 3. Adopt the following **new** subrule 11.6(7):

11.6(7) A dental hygienist who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by credentials may apply for licensure by verification, if eligible, in accordance with rule 650—11.12(272C).

ITEM 4. Amend rule 650—11.9(147,153) as follows:

650—11.9(147,153) Grounds for denial of application. The board may deny an application for license or permit for any of the following reasons:

1. Failure to meet the requirements for license or permit as specified in these rules.
2. Failure to provide accurate and truthful information, or the omission of material information.
3. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended.
4. Pursuant to 650—Chapter 50, for having a disqualifying offense.

This rule is intended to implement Iowa Code section 147.4.

ITEM 5. Adopt the following **new** subrule 11.10(6):

11.10(6) Disqualifying offenses. Any denial of licensure based on a disqualifying offense is governed by 650—Chapter 50 and not this rule.

ITEM 6. Adopt the following **new** rule 650—11.12(272C):

650—11.12(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

11.12(1) Eligibility. A dentist or dental hygienist may seek licensure by verification if the person is currently licensed as a dentist or dental hygienist in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, the person has been licensed for a minimum of one year in the other jurisdiction and either:

- a. The person relocates and establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.

11.12(2) Board application. The applicant must submit the following:

- a. A completed application for licensure.
- b. Payment of the application fee.
- c. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.
- d. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.
- e. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:
 - (1) A residential mortgage, lease, or rental agreement;
 - (2) A utility bill;
 - (3) A bank statement;
 - (4) A paycheck or pay stub;
 - (5) A property tax statement;
 - (6) A federal or state government document; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- f. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.
- g. Copies of complete criminal record, if the applicant has a criminal history.
- h. A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- i. A written statement from the applicant detailing the scope of practice in the other state.
- j. Copies of relevant laws setting forth the scope of practice in the other state.

11.12(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

11.12(4) Applicants with pending complaints or investigations. If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

11.12(5) Temporary licenses. Applicants who satisfy all requirements for a license under this rule except for passing the jurisprudence examination may be issued a temporary license in accordance with the following:

- a. A temporary license is valid for a period of three months.
- b. A temporary license may be renewed once for an additional period of three months if the applicant has not failed the jurisprudence examination.
- c. A temporary licensee shall display the board-issued license renewal card that indicates the license is a temporary license, which will satisfy the requirements in rule 650—10.2(147,153).
- d. The temporary licensee must submit proof of passing the jurisprudence examination before the temporary license expires. When the temporary licensee submits proof of passing the jurisprudence examination, the temporary license will convert to a standard license and be assigned an expiration date consistent with standard licenses.

e. If the temporary licensee does not submit proof of passing the jurisprudence examination prior to the expiration of the temporary license, the temporary licensee must cease practice until a standard license is issued.

ITEM 7. Adopt the following **new** subrule 20.6(4):

20.6(4) A dental assistant who is licensed or registered in another jurisdiction but who is unable to satisfy the requirements for registration in this rule may apply for registration by verification, if eligible, in accordance with rule 650—20.17(272C).

ITEM 8. Adopt the following **new** rule 650—20.17(272C):

650—20.17(272C) Registration by verification. Registration by verification is available in accordance with the following:

20.17(1) Eligibility. A dental assistant may seek registration by verification if the person is currently licensed or registered as a dental assistant in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, the person has been licensed or registered for a minimum of one year in the other jurisdiction, and either:

- a. The person relocates and establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.

20.17(2) Board application. The applicant must submit the following:

- a. A completed application for registration.
- b. Payment of the application fee.
- c. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license or registration, verifying that the applicant's license or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.
- d. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:
 - (1) A residential mortgage, lease, or rental agreement;
 - (2) A utility bill;
 - (3) A bank statement;
 - (4) A paycheck or pay stub;
 - (5) A property tax statement;
 - (6) A federal or state government document; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- e. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.
- f. Copies of complete criminal record, if the applicant has a criminal history.
- g. A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- h. A written statement from the applicant detailing the scope of practice in the other state.
- i. Copies of relevant laws setting forth the scope of practice in the other state.

20.17(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a registration nor deny the application for registration until the matter is resolved. A person who has had a license or registration revoked, or who has voluntarily surrendered a license or registration, in another jurisdiction is ineligible for registration by verification.

20.17(4) Applicants with pending complaints or investigations. If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before

any regulating entity in another jurisdiction, the board will neither issue a registration nor deny the application for registration until the complaint, allegation, or investigation is resolved.

20.17(5) Temporary registrations. Applicants who satisfy all requirements for a registration under this rule except for passing the jurisprudence examination may be issued a temporary registration in accordance with the following:

- a. A temporary registration is valid for a period of three months.
- b. A temporary registration may be renewed once for an additional period of three months if the applicant has not failed the jurisprudence examination.
- c. A temporary registrant shall display the board-issued registration renewal card that indicates the registration is a temporary registration, which will satisfy the requirements in rule 650—10.2(147,153).
- d. The temporary registrant must submit proof of passing the jurisprudence examination before the temporary registration expires. When the temporary registrant submits proof of passing the jurisprudence examination, the temporary registration will convert to a standard registration and be assigned an expiration date consistent with standard registrations.
- e. If the temporary registrant does not submit proof of passing the jurisprudence examination prior to the expiration of the temporary registration, the temporary registrant must cease practice until a standard registration is issued.

ITEM 9. Rescind paragraph **30.4(2)“d”** and adopt the following **new** paragraph in lieu thereof:

d. Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession;

ITEM 10. Adopt the following **new** 650—Chapter 50:

CHAPTER 50

USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

650—50.1(272C) Definitions.

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

“*License*” means any license, registration, or permit issued by the board.

650—50.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 650—50.3(272C), the applicant’s convictions will be reviewed when the board receives a completed license application.

50.2(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

50.2(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

50.2(3) An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

50.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

50.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

50.2(6) Any application fees paid will not be refunded if the license is denied.

650—50.3(272C) Eligibility determination.

50.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

50.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner's convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

650—50.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license due to a disqualifying offense may appeal the decision in the manner and timeframe set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

50.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

50.4(2) The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

50.4(3) The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

50.4(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

650—50.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant

may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code sections 272C.1(8) and 272C.15.

ITEM 11. Amend rule 650—52.1(35) as follows:

650—52.1(35 272C) Definitions.

“*License*” or “*licensure*” means any license, registration, certificate or permit that may be granted by the board.

“*Military service*” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“*Military service applicant*” means an individual who is requesting credit toward licensure or registration for military education, training, or service obtained or completed in military service.

“*Reciprocity*” means the process by which an individual licensed in another jurisdiction becomes licensed in Iowa and may also be referred to in other board rules as “licensure by credentials.”

~~“*Spouse*” means a spouse of an active duty member of the military forces of the United States.~~

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

ITEM 12. Amend rule 650—52.2(35), parenthetical implementation statute, as follows:

650—52.2(35 272C) Military education, training, and service credit.

ITEM 13. Amend rule 650—52.3(35) as follows:

650—52.3(35 272C) Veteran ~~or spouse~~ reciprocity.

52.3(1) A veteran ~~or spouse~~ with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran ~~or spouse~~ must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran ~~or spouse~~ under this subrule shall be given priority and shall be expedited.

52.3(2) An application for licensure by reciprocity shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant’s status as a veteran under Iowa Code section 35.1(2) ~~or as a spouse~~.

52.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran ~~or spouse~~ is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

52.3(4) The board shall promptly grant a license to the veteran ~~or spouse~~ if the veteran ~~or spouse~~ is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant’s disciplinary or criminal background.

52.3(5) If the board determines that the licensure requirements in the jurisdiction in which the veteran ~~or spouse~~ is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran ~~or spouse~~ of the additional experience, education, or examinations required

for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran ~~or spouse~~ has not passed the required examination(s) for licensure, the veteran ~~or spouse~~ may not be issued a provisional license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the veteran ~~or spouse~~ with the opportunity to satisfy the examination requirements.

b. to d. No change.

52.3(6) A veteran ~~or spouse~~ who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the veteran ~~or spouse~~ in connection with a contested case conducted pursuant to this subrule.

ITEM 14. Amend **650—Chapter 52**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 35 and 2019 Iowa Acts, House File 288~~ sections 272C.4(11) and 272C.4(12).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/14/21.